



ASIC

Australian Securities & Investments Commission

WEB SERVICE TERMS AND CONDITIONS OF USE

Carefully read these terms and conditions of use.

If your acceptance of these terms and conditions of use is in your capacity as a representative of an organisation, you represent and warrant that your acceptance is on behalf of the organisation, you are duly authorised by the organisation to enter into the agreement and the organisation has agreed to be bound by these terms and conditions.

These terms and conditions of use may be updated by Us from time to time. You will be notified of updates to the terms and conditions through our Subscriber Service.

Glossary

Machine to Machine	The Service provided by ASIC which allows messages in Extensible Mark-Up Language (XML) to be generated, received and sent to and from ASIC in the prescribed format through the internet.
Machine to Machine Users:	The party that accesses the Service under these terms and conditions using its own software.
Portal:	A Web-Based interface which allows You to access the Service without developing Your own software.
Portal Users:	The party that accesses the Service under these terms and conditions using ASIC's Portal.
Service:	ASIC's provision of services to update and access information held on ASIC's registers through ASIC's Portal or Machine to Machine channel.
Subscriber Service	The electronic system used by ASIC to notify You of updates to the terms and conditions and modifications to the Service, which includes email and publication on the ASIC website.
We/Us/Our:	Australian Securities and Investments Commission.
You/Your:	The party: (a) to whom the Service will be provided; and (b) who will be bound by these terms and conditions.

1. Access to the Service

- 1.1 We will provide the Service to You, subject to these terms and conditions.
- 1.2 The Service is provided to registered Machine to Machine Users and Portal Users.
- 1.3 You will comply with ASIC's authentication requirements which may include username and password or AUSkey.
- 1.4 We may, at any time:
 - 1.4.1 Modify the Service, which may include additional services;

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- 1.4.2 Modify the manner in which the Service is provided, which may include technological requirements; and
- 1.4.3 Modify the Portal.

- 1.5 We will consult with You in relation to modifications to the Service and will notify You of modifications to the Service through Our Subscriber Service.
- 1.6 We will provide support for registered users of the Service.
- 1.7 You must ensure that officers and employees that You have authorised to access the Service are aware of and comply with these terms and conditions.
- 1.8 We will provide free online access to the Business Names Register in accordance with the Business Names Registration Act 2011 (Cth) and under the terms of the Business Names Intergovernmental Agreement (IGA).

2. Service availability

- 2.1 We will provide the Service to you at all times, excluding unscheduled downtimes and scheduled maintenance
- 2.2 Notice of unscheduled downtimes and scheduled maintenance will be published in the "Service Availability" section of the Our website – www.asic.gov.au and notification will also be issued through Our Subscriber Service.
- 2.3 We will consider any request for a Service Level Agreement outside of the terms and conditions of use regarding the provision of Web Services. Any Service Level Agreement, if required, is to be negotiated and agreed between You and Us.

3. Amendment of terms and conditions

- 3.1 These terms and conditions may be updated by Us from time to time. You will be notified of updates to the terms and conditions through Our Subscriber Service. Your continued use of the system indicates Your acceptance of the terms and conditions.

4. Costs and fees

- 4.1 You are responsible for any costs relating to obtaining, installing and maintaining appropriate equipment (including communication links and software) required to use the Service. Such equipment must be consistent with the standards and specifications required by Us.
- 4.2 You will be required to pay all statutory fees required by Us.
- 4.3 We will provide free online access to the Business Names Register in accordance with the Business Names Registration Act 2011 (Cth) and the Business Names Registration (Fees) Regulations 2011.

5. Use and disclosure of information

- 5.1 You will comply with the Privacy Act 1998 (Cth) and any other legislation which governs Your access to information maintained by Us.
- 5.2 You must not disclose the information obtained through the Service to any person, unless the disclosure is permissible by law.
- 5.3 You will take all necessary security measures to ensure that there is no unauthorised access to, or unauthorised disclosure of, information obtained through the Service.

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- 5.4 You will not on-sell, pass on or distribute any information obtained through the Service to any other party unless authorised by Us in writing, except where information is received by You as a government body under section 62(1) of the Business Names Registration Act 2011 (Cth) (BNRA Act), and you are satisfied that any of that information that is passed on or distributed to another government body is for any of the purposes outlined in section 62(1)(a) and (b) of the BNRA Act.

6. Security measures and administration

- 6.1 You must appoint a person on Your behalf who is responsible for approving and managing all requests to access the Service (the administrator) and for receiving notifications from Us through Our Subscriber Service.
- 6.2 You must inform Us of any change to the Administrator or their details.
- 6.3 You must ensure that access to the Service is restricted to Your authorised officers and employees.
- 6.4 You must implement security measures to prevent unauthorised use of the Service. In the event of any unauthorised use of the Service, You must advise Us immediately.
- 6.5 You will be responsible for any unauthorised use of the Service.
- 6.6 We may monitor and log any access and use of the Service.

7. Technical requirements for Machine to Machine Users

- 7.1 You must register with Us to use Our Machine to Machine Services.
- 7.2 You will be issued with the technical specifications to develop Your own software. If a new version of the technical specifications is issued, You will be required to update Your software to the new version within three months of the date of issue or such other time agreed between You and Us.
- 7.3 We will provide You with access to our test Service. You will be required to conduct conformance testing to ensure the valid operation of Your software prior to gaining access to the production (live) Machine to Machine services.
- 7.4 If You submit continuous and repetitive messages to check Service availability, (whether intentionally or not), We may disconnect Your access. Prior to doing so, We will endeavour to contact You to remedy the fault immediately. If We are unable to contact You, and We are required to disconnect your access as it is impacting on Our Service, for the connection to be re-established, You will need to contact Us and outline in writing the reasons for the repetitive messages and provide assurance that the problem has been resolved and will not reoccur.
- 7.5 You must report any faults, failures or errors in respect of the Machine to Machine services to us.
- 7.6 If You choose to outsource the development of the Machine to Machine services to a third party, You must ensure that the third party developer is aware of and complies with these terms and conditions.

8. Liability of Machine to Machine Users

- 8.1 We are not responsible for the quality or merchantability of any software developed by You or a third party. We will not provide technical support for such software.
- 8.2 You will be liable for any third party supported or hosted application and infrastructure on which it resides.

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9. Technical requirements for Portal Users

- 9.1 You will be provided with access to the Service on registration, authentication and authorisation.
- 9.2 You will be advised of modifications to the Portal through Our Subscriber Service.

10. Disclaimer and indemnity

- 10.1 While We endeavour to ensure that information provided through the Service is accurate and error-free You acknowledge that We will not be responsible for any inaccuracy, omission, defect or error in this information. We will not be liable for any loss or damage, however arising, which may be caused by the use of this information.
- 10.2 You acknowledge that We will use reasonable endeavours to ensure that the information provided through the Service is free from computer virus infections, spyware or any other malicious content.
- 10.3 You will indemnify Us from and against any losses or claims arising out of or as a consequence of Your negligent, wrongful, or unlawful act or omission in relation to Your use of the Service.

11. Default, suspension and termination

- 11.1 You must immediately notify Us if You become aware of any breach or possible breach of these terms and conditions, advise Us of all actions taken to remedy the breach and any actions undertaken to avoid a reoccurrence.
- 11.2 If You breach these terms and conditions, We may limit, suspend or terminate Your access to the Service only to the extent of the breach and will restore the Service upon rectification of the breach.

12. Waiver

- 12.1 A waiver by You or Us of any terms or conditions of this agreement must be in writing and is only to the extent set out in the written waiver.
- 12.2 A waiver by Us in respect of any breach of a condition or provision of this agreement shall not be deemed to be a waiver in respect of any other or of any subsequent breach.

13. Intellectual Property

- 13.1 You acknowledge that all materials, documentation or other information including, any intellectual property rights provided by Us to You are the property of, and will at all times remain vested in, Us.
- 13.2 For the purposes of this clause 13, "intellectual property rights" mean all present and future intellectual and industrial rights conferred by statute, at common law or in equity and wherever existing.

14. Applicable law

- 14.1 This agreement shall be governed by and interpreted in accordance with the law of Victoria.
- 14.2 The parties submit to the exclusive jurisdiction of the Courts of Victoria.

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- 14.3 You must ensure that while undertaking the Service pursuant to this agreement it complies with:
- 14.3.1 all relevant Commonwealth legislation; and
 - 14.3.2 any other laws from time to time in force in the State or Territory in which the Service, or any part of the Service, is to be undertaken.